United Nations S/AC.37/2004/(1455)/30

Security Council

Distr.: General
31 March 2004
English
Original: French

Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 31 March 2004 from the Permanent Mission of Benin to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Benin to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities and, with reference to its note verbale dated 10 March 2004, has the honour to transmit to him, annexed herewith, the report prepared by Benin pursuant to resolutions 1455 (2003) and 1526 (2004) (see annex).

04-30651 (E) 270404 130504

Annex to the note verbale dated 31 March 2004 from the Permanent Mission of Benin to the United Nations addressed to the Chairman of the Committee

Report submitted by the Republic of Benin pursuant to paragraph 6 of Security Council resolution 1455 (2003) and paragraph 23 of Security Council resolution 1526 (2004)

I. Introduction

The Republic of Benin is a West African country situated on the Gulf of Guinea and bordered on the north by Burkina Faso and Niger, on the east by Nigeria and on the west by Togo. The country covers an area of 115,762 sq. km. It has a population of 6.5 million. The political capital is Porto-Novo and the economic capital is Cotonou. Its GDP is 292,000 CFA francs.

Benin has a presidential type of political system, based on the Constitution of 11 December 1990. The Constitution provides for a Chief Executive, elected by universal suffrage for a five-year term, and a single-chamber Parliament consisting of 83 deputies, elected by a list system for four-year terms.

The Constitutional Court, which monitors the constitutionality of the laws, is accessible to all citizens of the country, who may have recourse to it any time that they feel that an act of the authorities has infringed on their rights.

The security of persons and property is ensured in Benin by the national police service, which operates in the urban centres, and the national gendarmerie, which covers the rural areas. The Constitution of Benin guarantees the fundamental freedoms, which the national police and the gendarmerie protect. These freedoms include the freedom of movement of persons and property. This protection also involves the campaign against international organized crime, which includes the international terrorism practised by Al-Qaida and its associates.

The competent Beninese structures are aware of the threat which that organization represents for international peace and security and take it into account in their efforts to make the national territory secure. Benin has not, however, recorded any activity in its territory related to Al-Qaida.

It should be noted that, in order to face the threats linked to its active participation in international life, which is reflected in the organization of major international meetings in its territory, Benin has, since 1997, had a unit for research, assistance, intervention and dissuasion (RAID), whose mission is to secure the release of hostages, in particular in the case of the hijacking of aircraft or the sequestration of individuals, to combat serious crimes, to seek out or detect major criminogenic zones, to look out for transborder crimes, to shadow individuals, to provide airport surveillance in times of crisis and close protection for high-level persons, to search for explosives, and so on. RAID is fully involved in the campaign to prevent terrorism.

II. Consolidated List

The Consolidated List drawn up by the Committee established pursuant to resolution 1267 (1999) is a particularly useful instrument for the surveillance of the movements and activities of individuals and entities associated with Al-Qaida. All the competent Beninese structures are in possession of this Consolidated List, which has been made available to them for their use. None of the individuals and entities included in the Consolidated List has been detected in Benin. No national or resident of Benin appears in the Consolidated List.

The Constitution of Benin guarantees the freedom of movement of persons and property. All nationals and residents of Benin have the right to come and go. No obstacle may be placed in the way of the exercise of this right except on the conditions prescribed by the law in force.

The entry into Benin of foreign nationals is subject to the acquisition of a visa, which is granted after a meticulous analysis of the documents submitted for the purpose and the physical appearance of the applicants before the competent services. Moreover, entry into Benin is subject to strict control at the international airport at Cotonou, which is the only point of entry into Benin by air.

The official land border crossing posts are also subject to rigorous surveillance carried out jointly with the border services of neighbouring countries, each operating on its own side of the border, despite the efforts that have been made to facilitate border crossing under the policy of the freedom of movement of persons and property agreed on within the Economic Community of West African States.

From another standpoint, the small size of Benin's national territory and the vigilance of its population, as well as the coverage of the territory by the now decentralized local administration, makes it very unlikely that Benin's territory could be used for training camps. The Beninese authorities have no knowledge of the participation of Beninese nationals in such camps in other countries.

III. Financial and economic assets freeze

Since the attacks of 11 September 2001, the question of the financing of terrorism has become a crucial problem in the banking and financial sector of all countries, including Benin. In this connection, the Beninese authorities are strictly applying the conditions for the opening of bank accounts. A police record is required for the purpose. Such a procedure allows the bank to check the morality of clients. The competent services investigate financial transactions carried out by persons described as suspicious.

In this connection, the provision or collection of funds for the financing of terrorist activities is an offence in Benin and may be prosecuted under the provisions of the Criminal Code relating to association with criminals or complicity in association with criminals. Once an individual or an entity of any kind operating in Benin is under serious suspicion and the case is referred to the judicial authorities, all the protective measures deemed necessary may be ordered, including the freezing of the individual's or entity's assets, both movable and immovable.

At present, no asset belonging to any persons or entities appearing in the Consolidated List has been identified by the competent Beninese authorities. In the

Beninese banking system, the guarantee of banking confidentiality does not exclude the checking by the banking services concerned of the legality of transactions.

1. Legislation applicable to the transfer of funds

With regard to the legislation applicable to the transfer of funds, reference is made to regulation No. 15/2002/CM/UEMOA relating to payment systems in the States members of the West African Economic and Monetary Union (WAEMU). Benin is a member of WAEMU and is bound to apply strictly the regulations which it adopts.

The aforementioned regulation constitutes a modernization of the rules applicable to criminal policy. In this connection, the statement of the reasons for the regulation indicates that, with regard to the consequences, for criminal policy, of the introduction of electronic means in banking and financial transactions, provision is made for the treatment of offences linked to the use of new methods of, and procedures for, payment.

In fact, one of the major consequences of the rapid modernization is that it has given rise to new legal standards and, consequently, to new types of departures from those standards. In order to ensure the security and continuity of payment systems, the new legislation therefore had to modernize criminal policy in order to protect society against modern forms of criminality. Hence the criminalization of new forms of fraud, abuse and the forgery of new instruments and payment procedures. On the other hand, while pursuing and intensifying the de-escalation in the system of penalties for offences which do not give rise to real social reprobation, attention will be paid to the criminalization of new forms of departures from the rules which might be detrimental to the values protected by society.

It is this search for a balance between the imperative goal of security and the keen desire for justice which, based on a concern for efficiency, has given the provisions contained in the current regulation a sometimes preventive and sometimes punitive character. The titles of these penal provisions indicate new offences which are added to the pre-existing offences, thus forming a veritable architecture of criminal policy based on the two fundamental pillars: the prevention of departures from the rules and their punishment, if need be.

In this connection, it should be emphasized that the supranational character of WAEMU, of which Benin is a member, does not allow it to take strictly national measures in the area of commercial policy, in general, and in the banking area, in particular.

2. Decentralized financial systems

Decentralized financial systems are governed in Benin by clear provisions which take into account the purposes assigned to that method of financing. Indeed, the difficulties encountered in the 1980s by the development banks and the traditional structures for the financing of agriculture, small and medium-sized enterprises and the crafts industry have helped to aggravate the stagnation, or even the regression, of economic activity in the member countries of the West African Economic and Monetary Union (WAEMU). This situation has been reflected in the liquidation of most of the development banks.

This has made more urgent the need to promote alternative financing structures capable of ensuring the mobilization of small savings in rural and urban areas and to create conditions for the gradual integration of the informal sector into the modern economy.

To this end, discussions with the principal actors (development partners, local financing institutions, States and the Central Bank) have underlined the need to adjust the regulations in force in order to confer a legal status on institutions other than banks and financial establishments which offer financial services to the population not covered by the traditional banking system (cooperatives or mutual savings and loan institutions, non-governmental organizations which conduct savings collection and/or credit distribution operations, and projects with a credit component). Grouped under the heading of microfinance institutions (IMF) or decentralized financial systems (SFD), these entities appeared in the subregion at the end of the 1960s, in the case of the oldest.

In the context of the promotion of these institutions, which deal almost exclusively with the low-income population in both rural and urban areas, the Central Bank of West African States (BCEAO), with the assistance of member States and development partners, in addition to adopting a specific set of regulations for such institutions, as early as 1992 established two support projects to promote the emergence and development of these local financing structures.

These systems cannot be infiltrated either by international organized crime or by international terrorist organizations because of intensive monitoring by the International Monetary Fund, the World Bank and the Central Bank of West African States.

3. Charitable organizations

The activities of charitable organizations are subject to strict conditions. They must register with the Ministry of the Interior, Security and Decentralization and produce a file which, on the basis of the documents that have to be submitted, makes it possible to check the morality of the promoters and the conformity of the goals which they pursue with the constitutional order in force and to ensure that their activities in Benin will benefit the population.

IV. Travel ban

The border control authorities are responsible for the implementation of the travel ban prescribed in resolution 1267. The Consolidated List has been made available to them for the purpose. They can make the necessary checks. In particular, the security system has been considerably reinforced at the international airport at Cotonou, in liaison with the International Civil Aviation Organization (ICAO).

However, in view of the rudimentary means available to the land border control posts, the control cannot be systematized, but it is enforced when there are suspicions or actual indications which lead to the presumption of criminal activities.

The computerization of the border posts would make it possible to systematize the preliminary checks on the basis of the List. The updated versions of the List are

transmitted to the competent Beninese authorities whenever they are produced and sent to the Permanent Mission of Benin in New York.

V. Arms embargo

Benin is seriously engaged in the struggle against the proliferation of small arms and light weapons in connection with the implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. Moreover, it has joined in the moratorium on arms imports decided on by the Economic Community of West African States.

Since February 2003, Benin has established a National Commission to combat the proliferation of small arms. In July 2003, at the first meeting of the biennial review of the United Nations Programme of Action, it submitted a national report which gives an account of the action taken and the results achieved.

It should be emphasized that Benin does not export arms and does nothing which could run counter to the arms embargo imposed on Al-Qaida and individuals and entities associated with its activities.

VI. Assistance and conclusion

Benin is fully aware of the threat which terrorism and organized international crime represent. It is participating in the international mobilization against these scourges of our time. In this connection, it is prepared to engage in international cooperation to reinforce the capacity of its security apparatus in order to protect its territory and its financial circuits against any possible manoeuvres by terrorist networks.

It is in this spirit that it has requested the assistance of the international community in the creation of a central office to combat terrorism, whose mission would be to ensure the coordination of the surveillance of the territory, the exchange of information on terrorist networks, the search for information in the specific area of terrorism and the suppression of terrorism. The needs expressed in this connection relate to the training of experts, the provision of various kinds of equipment and patrol vehicles and research facilities.

Apart from these specific needs, the support to be provided should be aimed at removing the obstacles which impede the missions of the structures responsible for ensuring security in Benin. The problems to be resolved in this area relate to:

- The dearth of human resources;
- The lack of vehicles and motorcycles for intervention in open country and of technical equipment for surveillance, intervention and communication;
- The non-existence of residential areas for the police which makes it difficult to mobilize the police force in case of need;
- The openness of the borders, which make it necessary to increase the number of patrols and to engage in intensive cooperation with neighbouring countries.